

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANA L. ROJAS, *individually and on behalf
of all others similarly situated*,

Plaintiffs,

v.

L-RAY, LLC d/b/a ALTA RESTAURANT,
CHRISTOPHER CHESNUTT, and EWA
OLSEN,

Defendants.

ORDER

20 Civ. 6109 (ER)

RAMOS, D.J.

On August 5, 2020, Ana L. Rojas brought this putative collective action against L-Ray, LLC d/b/a Alta Restaurant, Christopher Chesnutt, and Ewa Olsen for violations of the Fair Labor Standards Act (“FLSA”) and associated state law claims. Doc. 1. On December 2, 2020, the Court ordered Rojas to submit a status report, noting that she had not filed proof of service and defendants had not appeared. Doc. 6. On December 23, 2020, defendants entered their appearance. Doc. 13. On January 2, 2021, parties were referred to mediation. Doc. 15. On January 28, 2021, after having been granted an extension by the Court, defendants answered. Docs. 14, 18. On March 30, 2021, the date of the parties’ scheduled mediation, Rojas informed the Court that the parties had held their own settlement discussions and believed that they could resolve the case without mediation. Doc. 19. The Court therefore ordered the parties to submit their proposed settlement agreement for the Court’s review pursuant to *Cheeks v. Freeport Pancake House*, 796 F.3d 199 (2d Cir. 2015), by April 30, 2021. Doc. 20. They did not.

On June 14, 2021, the Court ordered Rojas to show cause why the Court should not

dismiss this case for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). On July 9, 2021, the parties appeared at the show cause hearing via telephone, and the Court granted them an additional thirty days, until August 9, 2021, to file their settlement agreement. On August 9, 2021, instead of filing the proposed agreement, Rojas filed a further status report informing the Court that defendants were prepared to serve her an offer of judgment pursuant to Rule 68(a) of the Federal Rules of Civil Procedure. Rojas requested a further twenty-one days to file the accepted offer of judgment or provide a further status report. Doc. 25. On August 10, 2021, the Court granted the request and directed the parties to file their submissions relating to the offer of judgment by August 30, 2021. Doc. 26. To date, the parties have submitted neither the accepted offer of judgment nor any further status report.

The parties are therefore ORDERED to submit either their proposed settlement agreement or the accepted offer of judgment pursuant to Fed. R. Civ. P. 68(a) **no later than December 20, 2021**. Failure to do so will result in dismissal for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

It is SO ORDERED.

Dated: December 10, 2021
New York, New York



Edgardo Ramos, U.S.D.J.